IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.16204 of 2008
TARKESHWAR NATH SINGH
Versus
STATE OF BIHAR
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3. 2.5.2008 This is an application for grant of regular bail in a case under sections 420, 406, 407 and 408/34 of the Indian Penal Code. District Commander Birendra Mohan Shukla lodged a first information report against three persons including the petitioner alleging therein that he is a proprietor of Group-6 Security Services and he appointed the petitioner Tarkeshwar Nath Singh as a Manager of the same Group-6 Security Services for general administration and to sign the papers of Provident Fund, Employees State Insurance, Service Tax, Labour Licence and to deposit the Chalan in the bank with the condition to report all the incidents to him. It is alleged that he lives at Delhi and hence he handed over 70-80 signed cheques for necessary expenditure. The co-accused Sangeeta Singh, who is wife of the petitioner, had knowledge as she used to keep the cheques in her house. It is alleged that co-accused Sanjay Kumar Choudhary used to look after the work of BSNL of Begusarai on behalf of the petitioner and an authority letter, at the instance of the petitioner, was issued to him to collect cheques of Barauni Refinery and deposit the same in the bank but the petitioner used to make payment to the employees by Sanjay Kumar Chaudhary through cheque. It is alleged that all the three accused persons under conspiracy withdrew a sum of rupees forty lakhs ten thousands from Current Account No.01000050162 of the informant on 16th March, 2007 and again withdrew a sum of rupess four lakhs

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twenty thousand on 26th March, 2007. These amounts were withdrawn under cheques by co-accused Sanjay Kumar Chaudhary without the permission of the informant. Hence, the informant lodged a first information report No.30 of 2007 at Mufassil Police Station, Katihar. It is further alleged that apart from this, Sanjay Kumar Chaudhary withdrew a sum of rupees seven lakhs eighty thousands on 17 April 2007 through cheque after stealing the cheque from the bank for which the informant lodged a first information report no.147 of 2007 at Barauni Police Station. It is alleged that the investigating officer did not investigate the aforesaid two cases properly and as a result the case failed. It is further alleged that the petitioner was the Manager of Group-6 Security Services from the month of October, 2005 to the month of April,2007 and during this period he did not deposit the amount of E.P.F. deducted from the salary of the employees, Service Tax etc. and kept the said amount in his pocket and thereby misappropriated the same. Hence, this case.

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Learned counsel for the petitioner submits that as per the very first information report two cases filed by the informant bearing Barauni P.S. Case No.147 of 2007 and another Katihar P.S.Case No.30 of the 2007 failed, of course, on account of lack of proper investigation. He submits that these two cases were duly investigated by the police officer and thereby final report was submitted. He submits that so far as allegation of misappropriating the amount of E.P.F., E.S.I. and Services Taxes are concerned the petitioner totally deny the allegation. He submits that admittedly the informant appointed the petitioner as a

Manager of Group-6 Security Services and apart from that the informant entrusted the job of depositing the amount of E.P.F., E.S.I. and Service Tax but suesequently issued another letter dated 15th August, 2006 and thereby declared that since the petitioner was extremely busy and thereafter he would no longer be responsible for depositing the same. In this connection he refers to annexures-4 and 4/A. He further submits that subsequently the informant himself issued two letters Annexures-5 and 5/A and thereby appointed co-accused Sanjay Kumar Chaudhary to look after the management of Group-6 Security Services and to deposit the amount of E.P.F, E.S.I., Service Tax etc. and, as such, he submits that the allegations against the petitioner are baseless, false and frivolous and the petitioner is innocent. So, he prays for grant of bail.

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Learned State counsel simply opposed the prayer for bail.

Considering the allegations contained in the written report of the informant together with the submissions made, the petitioner, Tarkeshwar Nath Singh, is directed to be released on bail on furnishing bail bond of Rs.10,000/- with two sureties of the like amount each to the satisfaction of Chief Judicial Magistrate, Begusarai, in connection with Barauni Refinery P.S.Case No. 254 of 2007.

Md.S. **(Anwar Ahmad)**